

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. - : 14 Cr. 34 (RMB)

DINESH D'SOUZA, :

Defendant. :

- - - - - x

GOVERNMENT'S PROPOSED EXAMINATION OF PROSPECTIVE JURORS

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The Government respectfully requests, pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure, that the Court include the following questions in its examination of prospective jurors.

A. The Charges

1. This is a criminal case. The defendant, DINESH D'SOUZA, has been charged in an indictment with violating federal laws.

2. The indictment is not evidence. It simply contains the charges that the Government must prove to the jury beyond a reasonable doubt. I will summarize the charges in this case in order to determine whether there is anything about the nature of this case which may make it difficult or inappropriate for any of you to serve on the jury.

3. The defendant, DINESH D'SOUZA, has been charged in

an Indictment in two counts. Count One charges D'SOUZA with violating federal election laws that, among other things, limit the amount of money that may be contributed to a federal candidate for public office and prohibit the reimbursement of another person for campaign contributions. More specifically, Count One alleges that in or about August 2012, D'SOUZA directed other people to make contributions to the campaign of a candidate for the United States Senate, and D'SOUZA reimbursed those individuals for these contributions. Count Two charges that from in or about August 2012 through in or about July 2013, D'SOUZA caused the campaign committee of the candidate for the United States Senate to file reports with the Federal Elections Commission that falsely stated the sources and amounts of campaign contributions by certain individuals.

4. Do any of you believe you have personal knowledge of the case as I have described it? Has any juror read or heard anything about this case? If so, is there anything such a juror has read or heard that would cause him or her to feel that he or she cannot decide the fact issues of this case fairly and impartially?

B. Nature of the Charges

5. As you can tell, during the trial, you will hear evidence concerning alleged violations of laws that govern donations or contributions to candidates for public office as well

the laws governing reporting requirements for such donations or contributions. Does the fact that the charges involve alleged violations of campaign finance limits and laws make it difficult for any of you to render a fair verdict? Do any of you feel, for any reason, that you could not decide fairly and impartially a case involving such charges?

6. Has any juror been involved in an offense involving political campaign contributions or election laws? Has any juror's relative, close friend or associate been involved in an offense involving such issues? Has any juror, or any member of the juror's family, or any juror's close friend, had any experiences of any kind, directly or indirectly, with fraud or impropriety concerning political campaigns or campaign contributions?

7. As you can tell, during this trial, you will hear some evidence that relates to raising and giving money to a candidate for public office. Does any juror or does any juror have a relative, close friend or associate, who works or worked in a job or otherwise had a close association with a politician or elected official? If so, is there anything about that experience which would affect his or her ability to be a fair and impartial juror in this case?

8. Does any juror or does any juror have a relative, close friend or associate, who raises money or seeks campaign contributions for politicians or elected officials? If so, is

there anything about that experience which would affect his or her ability to be a fair and impartial juror in this case?

9. During this trial, you may hear evidence about the political party affiliation, political views and beliefs, or political and public service activities of certain of the witnesses and/or the defendant. Would any juror be unable to render a fair and impartial verdict, if the juror is presented with evidence concerning the political party affiliation, political views and beliefs, or political activities of one or more of the trial participants, whether or not they are different from or similar to the juror's?

10. During this trial, you may hear evidence that witnesses and/or the defendant were unfaithful in their marriages. Do any of you feel, for any reason, that you could not decide fairly and impartially a case involving testimony or evidence that a trial participant or participants(s) were unfaithful in their marriage?

C. Knowledge of the Trial Participants

11. As I mentioned previously, the defendant in this case is DINESH D'SOUZA. [Please ask the defendants to stand.] Do any of you know, or have you had any dealings, directly or indirectly, with the defendant, or with any relative, friend or associate of the defendant?

12. To your knowledge, do any of your relatives,

friends, associates, or employers know the defendant?

13. Is there anything that you have read or heard about the defendant prior to today that would affect your ability to be a fair and impartial juror in this case?

14. DINESH D'SOUZA is represented by Benjamin Brafman, Esq. and Alexander Spiro, Esq. of the law firm Brafman & Associates, P.C. [Please ask the attorneys to stand.] Do any of you know either of these attorneys, the law firm Brafman & Associates, P.C., or anyone who works with these attorneys?

15. The Government is represented here, as in all cases where it is a party before this Court, by the United States Attorney for the Southern District of New York, who is Preet Bharara. The conduct of the trial will be in the immediate charge of Assistant United States Attorneys Carrie Cohen and Paul Krieger. [Please ask the AUSAs to stand.] Have you or your family members or close friends had any dealings either directly or indirectly with the United States Attorney's Office? Do any of you know Mr. Bharara, Ms. Cohen, or Mr. Krieger? Have you or your family members or close friends had any dealings either directly or indirectly with them? The Government also will be assisted in this case by Special Agent Elizabeth Bracco of the Federal Bureau of Investigation, and Mary Riverso, a paralegal specialist with the United States Attorney's Office. Have you or your family members or close friends had any dealings either directly or indirectly

with the FBI? Do any of you know Special Agent Bracco? Do any of you know Ms. Rivero?

16. I will now read a list of names, entities, and locations that may be mentioned during the trial. Some of the individuals may be witnesses in this case.

Entities

- Wendy Long for United States Senate
- Compliance Consulting
- Federal Elections Commission
- The King's College, New York
- Ally Bank
- Bank of America
- J.P. Morgan Chase Bank
- Wells Fargo
- Branch Banking & Trust Bank
- Obama's America Foundation, LLC
- The Nest Restaurant & Bar
- Dartmouth College
- Henry Ford Hospital

Locations

- 56 Broadway, New York, New York
- 235 West 48th Street, New York, New York
- 265 East 66th Street, New York, New York
- 29723 Shacket Street, Wetland, Michigan
- 12517 101 Avenue, Queens, New York

People

- Wendy Long
- Tim Beall
- Denise Odie Joseph
- Louis T. Joseph
- Alyssa Vawser
- Tyler Vaswser

- Melodie Johnson
- Alexandra Preate
- Dixie D'Souza
- Cabell Hobbs

Are any of you familiar with the locations I mentioned? Do any of you know any of these individuals or entities? Have you had any dealings either directly or indirectly with any of these individuals or entities?

D. Relationship with Government

17. Does any juror, or his or her relatives or close friends, work in law, law enforcement, the justice system, or the courts? In what capacity? Has any juror had any contact with anyone in law, law enforcement, the justice system or the courts that might influence your ability to evaluate this case?

18. Does any juror know, or have any association -- professional, business, or social, direct or indirect -- with any member of the staff of the United States Attorney's Office for the Southern District of New York?

19. Does any juror know, or have any association -- professional, business, or social, direct or indirect -- with the Federal Bureau of Investigation?

20. Have you, or has any member of your family, either as an individual or in the course of his or her business, ever been a party to any legal action or dispute with the United States or any of the departments, agencies, or employees of the United

States, including the Internal Revenue Service? Have you had any legal, financial, or other interest in the outcome of such a dispute? Have you, or has any member of your family, ever had such a dispute concerning money owed to you by the Government or owed by you to the Government?

21. Has any juror, either through any experience he or she has had or anything he or she has seen or read, developed any bias or prejudice or other feelings for or against the United States Department of Justice, the United States Attorney's Office for the Southern District of New York, or the Federal Bureau of Investigation?

E. Prior Jury Service

22. Have you ever, at any time, served as a member of a grand jury, whether in federal, state, county or city court? If so, when and where did you serve?

23. Have you ever served as a juror in any court? If so, when, and in what court did you serve, and was it a civil or criminal case? What was the nature of the case? Without saying what it was, did the jury reach a verdict?

F. Experience as a Witness, Defendant, or Crime Victim

[As to any prospective juror who answers affirmatively the following questions, the Court is respectfully requested to inquire, at sidebar, into the circumstances of each crime.]

24. Have any of you, or any of your relatives or close

friends, ever been involved or appeared as a witness in any investigation by a federal or state grand jury, or by a Congressional or state legislative committee, licensing authority, or governmental agency? Have you, or any of those close to you, ever been questioned in any matter by a federal, state, or local law enforcement agency?

25. Have you ever been a witness or a victim in any federal or state prosecution?

26. Are you, or is any member of your family, now under subpoena or, to your knowledge, about to be subpoenaed in any criminal case?

27. Have you, or has any member of your family, any associate or close friend, ever been charged with a crime?

28. Have you, or have any of your relatives, associates, or close friends ever been the subject of any investigation or accusation by any federal or state grand jury, or by any Congressional committee?

29. Have you, or any of your close friends or relatives, ever been a victim of a crime?

G. Views on Certain Witnesses

30. The Government witnesses may include law enforcement witnesses or federal government employees. Does anyone have any personal views or experiences with law enforcement or federal government employees that would in any way affect their ability to

be fair and impartial in this case?

31. You will likely hear testimony by and about the use of witnesses who may have been involved in criminal conduct, and who entered into an agreement with the Government in exchange for not being charged with a crime or crimes for such potentially criminal conduct. Similarly, you will likely hear testimony by and about the use of witness who will be testifying under Court ordered of immunity from prosecution. I advise you that the use of witnesses with Court-ordered immunity or non-prosecution agreements with the Government is a legal and often necessary law enforcement tool. Do you have any general feeling about the Government's use of such witnesses that would make it difficult for you to render a wholly fair and impartial verdict? Would you have any bias for or against the Government because of evidence obtained in this manner?

32. You may hear evidence of a recorded conversation that was obtained without the knowledge of at least one of the parties to the conversation. The Government is entitled to use this recording at trial, if the Court determines such evidence is admissible. Does the fact that the case may involve the use of a recorded conversation make it difficult for any of you to render a fair verdict?

H. Persons Not on Trial

33. You might hear evidence in this trial of criminal activity committed by people other than the defendant. Those other

individuals are not on trial here. You may not draw any inference, favorable or unfavorable, towards the Government or the defendant from that fact. You also may not speculate as to the reason why other persons are not on trial. Is there any juror who cannot follow this instruction or who for this reason would have difficulty rendering a fair and impartial verdict?

I. Ability to Sit as a Juror

34. Do any of you have problems with your hearing or vision which would prevent you from giving full attention to all of the evidence at this trial?

35. Are any of you taking any medication, or do any of you have any medical condition, that would prevent you from giving full attention to all of the evidence at this trial?

36. Do any of you have any difficulty in reading or understanding English?

37. Do any of you have any religious, philosophical or other beliefs that would make you unable to render a guilty verdict for reasons regardless of the evidence?

J. Function of the Court and Jury

38. The function of the jury is to decide questions of fact. You are the sole judge of the facts and nothing that the Court or the lawyers say or do may encroach in any way on your role as the exclusive fact-finder. When it comes to the law, however, you are to take your instructions from the Court, and you are bound

by those instructions. You may not substitute your own notions of what the law is, or what you think it should be. At the conclusion of the case, your job will be to determine whether or not each defendant is guilty as charged in the indictment. Does any juror have any bias or prejudice that might prevent or hinder him or her from accepting the instructions of law that I will give you in this case?

39. Will each of you accept that the question of punishment is for the Court alone to decide, and that the possible punishment must not enter into your deliberations as to whether each defendant is guilty or innocent?

40. Will each of you accept that sympathy must not enter into the deliberations of the jurors as to guilt or innocence of each defendant, and that only the evidence produced here in Court may be used by you to decide the guilt or innocence of each defendant?

41. It is not a particularly pleasant duty to find another individual guilty of committing a crime. Is there any juror who feels that even if the evidence established the defendants' guilt beyond a reasonable doubt, he or she might not be able to render a guilty verdict for reasons regardless of the evidence?

K. Other Biases

42. In these questions, I have tried to direct your

attention to possible reasons why you might not be able to sit as a fair and impartial juror. Apart from any prior question, does any juror have the slightest doubt in his or her mind, for any reason whatsoever, that he or she will be able to serve conscientiously, fairly and impartially in this case, and to render a true and just verdict without fear, favor, sympathy or prejudice, and according to the law as it will be explained to you?

L. Juror's Background

43. The Government respectfully requests that the Court ask each juror to state the following information:

- a. the juror's age;
- b. the area in which the juror resides and any other area the juror has resided during the last ten years;
- c. the juror's educational background, including the highest degree obtained;
- d. the juror's occupation;
- e. the name of the juror's employer, and the period of employment with that employer;
- f. the same information concerning other employment within the last five years;
- g. the same information with respect to the juror's spouse and any working children;
- h. newspapers and magazines the juror reads and how often;

- i. television programs the juror regularly watches;
- j. the juror's hobbies and leisure-time activities; and
- k. whether the juror is a member of any clubs or organizations.

M. Requested Instruction Following Impaneling of the Jury

44. From this point until the time when you retire to deliberate your verdict, it is your duty not to discuss this case with anyone, including your fellow jurors, and not to remain in the presence of other persons who may be discussing this case. The rule about not discussing the case with others includes discussions even with members of your own family, your friends, on the internet, or in social media.

45. Do not read or listen to anything touching on this case in any way including on any form of social media, Facebook, Twitter, Instagram, etc. With respect to any publicity this case generates, you are instructed not to read, listen to, or watch any news or other reports about the case. You must not be influenced by anything you might hear or see outside the courtroom.

46. Do not do any research or investigation about the case or anything touching upon the case. Do not go on the Internet to do any searches about this case or these kinds of cases or any of the individuals involved.

47. If at any time during the course of this trial, any person attempts to talk to you or to communicate with you about this case, either in or out of the courthouse, you should immediately report such an attempt to me through my deputy clerk. In this regard, let me explain to you that the attorneys and the defendants in a case are not supposed to talk to jurors, not even to offer a friendly greeting. So if you happen to see any of them outside this courtroom, they will, and should, ignore you. Please do not take offense. They will be acting properly by doing so.

Dated: New York, New York
April 17, 2014

Respectfully submitted,

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